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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XC310

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
2012 Commercial Accountability Measure and Closure for South  
Atlantic Blue Runner

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for blue runner in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for blue runner, as estimated by the Science and Research Director, have reached the commercial annual catch limit (ACL). Therefore, NMFS closes the commercial sector for blue runner on December 10, 2012, for the remainder of the 2012 fishing year, through December 31, 2012. This action is necessary to protect the blue runner resource in the South Atlantic.

DATES: This rule is effective 12:01 a.m., local time, December 10, 2012, until 12:01 a.m., local time, January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: [Catherine.Hayslip@noaa.gov](mailto:Catherine.Hayslip@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). Blue runner in the South Atlantic are managed under this FMP. The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

The commercial ACL for blue runner in the South Atlantic is 188,329 lb (85,425 kg), round weight, as specified in 50 CFR 622.49(b)(19)(i)(A).

In accordance with regulations at 50 CFR 622.49(b)(19)(i)(A), NMFS is required to close the commercial sector for blue runner when the commercial ACL for blue runner has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for South Atlantic blue runner has been met. Accordingly, the commercial sector for South Atlantic blue runner is closed effective 12:01 a.m., local time, December 10, 2012, until 12:01 a.m., local time, January 1, 2013.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having blue runner onboard must have landed and bartered, traded, or sold such blue runner prior to 12:01 a.m., local time, December 10, 2012. During this commercial closure, the sale or purchase of blue runner taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of blue runner that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, December 10, 2012, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for blue runner would apply regardless of where the fish are harvested, i.e., in state or Federal waters, as specified in 50 CFR 622.49(b)(19)(i)(A).

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic blue runner and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the

Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for blue runner constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the blue runner resource. The capacity of the fishing fleet allows for rapid harvest of the ACL and prior notice and opportunity for public comment would result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: December 5, 2012

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William D. Chappell,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

Date: 12/10/2012]